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Staff: Rob Modellmog-SF  
Staff Report: 8/26/21  
Hearing Date: 9/9/21

## **STAFF REPORT: Recommendations and Findings for Consent Cease and Desist Order No. CCC-21-CD-01 and Consent Administrative Penalty No. CCC-21-AP-01**

**Consent Cease and Desist Order No.:** CCC-21-CD-01

**Consent Administrative Penalty No.:** CCC-21-AP-01

**Related Violation File:** V-6-19-0171

**Violator:** Campland, LLC and Northeast MB, LLC

**Project Location:** State tidelands granted to the city of San Diego and commonly known as: 1) Campland on the Bay, located at 2211 Pacific Beach Drive (approximately 40 acres of land and 5.5 acres of water space in Mission Bay Park, as described in the April 25, 2017 lease between the City of San Diego and Campland, LLC); and 2) Mission Bay RV Resort, located at 2727 De Anza Road (approximately 70 acres of land and 6 acres of water space in Mission Bay Park, as described in the July 1, 2019 lease between the City of San Diego and Northeast MB, LLC), in the City of San Diego.

**Violation Description:** 1) placement of signs and other physical items of development, including, but not limited to, signs restricting access to the public and signs stating that the Leased Tidelands are private property, 2) placement of physical objects that blocked public access, including storage of dumpsters, trailers, and boats in public parking areas, and 3) undertaking other actions that have the effect of impeding or discouraging public access, including: use of private security guards and fences that block and/or impede public access to beaches, public parking areas, and public tidelands;

advertising on Respondent's company website and Respondents' advertising on other websites that the beach at Campland is a "private beach;" and labeling the required public parking area as "guest parking" on the Mission Bay RV Resort website; all of which had the effect of changing the intensity of use of beaches, public parking areas, and public tidelands, and of access thereto.

**Substantive File Documents:** Public documents in Consent Cease and Desist Order and Consent Administrative Penalty File Nos. CCC-21-CD-01 and CCC-21-AP-01; Exhibits 1 through 13; and Appendix A of this staff report.

**CEQA Status:** Categorically Exempt (Cal. Code of Regs., tit. 14, §§ 15321(a)).

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## SUMMARY OF STAFF RECOMMENDATION AND FINDINGS

### Overview

This matter involves two private resorts, Campland on the Bay ("Campland") and Mission Bay RV Resort, that both lease public property from the City of San Diego, but did not provide required public access to beaches and parking areas located on these leased public lands in Mission Bay, in San Diego. These two resorts are owned and operated by related entities with the same president, and are referred to collectively herein as Respondent. As described below, this right of public access arose decades ago at Campland via a lease from the City of San Diego ("the City") to Campland's predecessor, and arose in 2019 at Mission Bay RV Resort in a lease to Respondent.

Mission Bay is located to the north of San Diego Bay, and Campland on the Bay and Mission Bay RV Resort are both located on tidelands held in trust for the public in the northeast corner of the bay. This area of Mission Bay is popular with swimmers, boaters, and paddlers looking for calm water to enjoy. Respondents' resorts are adjacent to each other, and to the west of Campland are the wetlands of the Kendall-Frost Mission Bay Marsh Reserve. To the east of Mission Bay RV Resort is De Anza Cove Park, a park with grass and recreation facilities. Much of the rest of the Mission Bay bayfront is occupied by similar public parks and recreational businesses.

The beaches at Campland and Mission Bay RV Resort are both only accessible by land by entering and passing through the resorts themselves. While there is some public parking available outside Mission Bay RV Resort and Campland, it is limited and not close to the beaches accessed through the resorts.

## **The Leases**

In 1945, the State of California granted tidelands, held in the public trust in Mission Bay, to the City, including these tidelands (“the Leased Tidelands”) which make up the totality of the Properties, but “reserved to the people of the State of California the absolute right to fish in the waters of Mission Bay with the right of convenient access to such waters,” among other conditions. Since then, the City has held these lands in trust for the public and has leased much of Mission Bay to private commercial businesses for recreational purposes.

### **Campland Leases**

In 1967, the City entered into a 50-year lease agreement with Tri-Square Construction Co. Inc for private use of a bayfront area of Mission Bay now referred to as Campland. This lease required, among other things, the lessee to provide public access to the beach on Mission Bay. In 1975, a predecessor of Respondent took over this lease.

In 2017, Respondent entered into a new 3-year lease with the City. This lease affirmed the existing requirements to provide for public access to the beach and added a new requirement to provide 31 free public parking spots at Campland. In addition, the lease included requirements to post signs stating that the area is open to the public. In 2019, this lease was extended to 2023, and the City reserved the right to grant other short-term lease extensions.

### **Mission Bay RV Resort Leases**

In 2019, Respondent entered into a lease with the City at the area referred to as Mission Bay RV Resort. This leased public property, located to the east of Campland in northeast Mission Bay, was historically operated as a private mobile home park by a different manager. In 2019, the City entered into a four-year lease agreement (with the possibility of a one-year extension) with Northeast MB for this area, now referred to as Mission Bay RV Resort. This lease also included requirements to provide public access to the beach, as well as public access to bike and pedestrian paths and a requirement to provide free access to a large public parking lot there. In addition, this lease also included requirements to post signs stating that this area was public.

## **Violation History at the Resorts**

### **Campland**

In 2015, Respondent advertised the beach at Campland as a “private beach” on its own website, as well as on other websites, even though the beach was legally supposed to be open to the public, as the lease required the area to be “available for use by the general public.” Respondent also posted signs that had the effect of blocking public access to the beach, including some declaring Campland to be “Private Property,” even though the area is actually leased land in a public park.

After Campland's 2017 lease reiterated the requirement for public access to the beach and added a new requirement for 31 free public parking spaces, Respondent, among undertaking other unpermitted development and activities, failed to provide the 31 free public parking spots, on numerous instances told the public they could not enter Campland, failed to install City-required signs indicating that the area was public, and instead maintained signs stating that the area was private property.

#### Mission Bay RV Resort

Similarly, Mission Bay RV Resort's 2019 lease identified a public parking area that was to be provided for use by the public for free. This lease required Respondent to provide public access to the designated public parking area, as cars could only reach this parking lot by passing through the leased land of the resort. Like at Campland, this lease also requires Respondent to post signs identifying the area as owned by the City and available for public use. However, Respondent failed to post the signs identifying the area as public, and instead maintained a sign at the entrance that stated "Mission Bay RV Resort Parking Only," and signs within the designated public parking lot stating "Guest Parking Only" and "Parking by Permit Only," and labeled the public parking lot as "Guest Overflow" on their website. These signs and labels had the effect of blocking public access to the public parking there. These signs impeded public access for those wishing to park to access the beach and the trail, or to fish.

Respondent's actions noted herein violated the lease requirements at both Campland and Mission Bay RV Resort and constituted 'development' under the Coastal Act, but no Coastal Development Permit ("CDP") was obtained. Therefore, these actions constituted unpermitted development and violations of the Coastal Act.

#### **Commission Enforcement Discovery**

After receiving reports of the violations, Commission staff sent Respondent a Notice of Violation in June of 2020. Upon receiving the notice, Respondent quickly removed most of the "private property" signs and other obstructions to public access at both resorts. However, the Commission continued to receive reports that Respondent was not allowing the public into Campland, and that the guards were also telling the public that no public parking was available at Campland.

Although the City lease affirmatively requires that Respondent provide public access to beaches and public parking areas at Campland and Mission Bay RV Resort, these leased areas of public land were privatized by Respondent. Respondent's paying guests have used the parking lots and have enjoyed easy and convenient access to the beaches at the resorts that was not provided to the general public.

#### **A Matter of Environmental Justice**

The public access violations here present a threat of environmental injustice given the prices to stay at Campland and Mission Bay RV Resort. Both resorts are more expensive than nearby public campgrounds, although the nearby public campgrounds

do not provide the same recreational amenities, such as a pool and live entertainment, that the Campland resort provides. The approximate base cost of renting a campground space for a tent for two weekend, non-holiday nights at Campland in the summer is \$292. This is over three times the cost of the nearby state campground at San Elijo State Beach in Cardiff, which would cost approximately \$80 for two weekend nights in the summer and which does not charge more for holidays. At Mission Bay RV Resort, the base cost for an RV space is approximately \$282, which is approximately double the cost of the nearby public RV campground at Silver Strand State Beach in Coronado, which would cost approximately \$140 for two nights and also does not charge more for holidays. Therefore, when Respondent restricted access here, use of the beaches and parking on these tidelands were restricted to people who could afford the relatively high costs of camping at the resorts here, and/or could afford the relatively high cost of owning an RV.

It is an important precept of environmental justice in California that all of the public should enjoy access for recreation at coastal areas. Public access and coastal recreation continue to be threatened by unpermitted restrictions on beach or coastal access. While commercial businesses and people who can afford to patronize those businesses benefit from private development fronting Mission Bay and our coast generally, those that do not have these means and/or live far from the coast receive the burdens associated therewith.

### **The Proposed Resolution**

However, Respondent has worked relatively quickly with Commission enforcement staff to reach this proposed consensual resolution, and has agreed to resolve the violations and to also provide both measures to address civil penalties and lost public access. The proposed agreement has three general provisions. The first requires Respondent to comply with the requirements of the lease and to restore public access here, and to prevent any further restriction of public access by installing new signs that explain what areas are public, instituting an employee training program to assist the public in accessing these areas, and adding text to their website explaining that the area is public, and requesting that any third party websites with references to private beaches at these resorts correct their websites to explain that these areas are public.

Secondly, the proposed Consent Agreement provides for a payment of \$250,000 to the Violation Remediation Fund and also provides new benefits to the public “in lieu” of a higher penalty. Respondent’s proposed “in lieu” program is a free camping program for underserved youth and families that will bring people who otherwise would not have easy access to our coast to stay at these resorts. Under the proposed Consent Agreement, Respondent will provide this program for a value of \$50,000 for 5 years, or until Respondent’s current leases, or any extension of those leases, ends, starting from the date the free camping program is implemented and available to the public. Respondent will advertise the program in underserved communities to find participants and transport them for free to Campland if they require transportation. The participants will also be able to request free camping gear if they need it, and will be able to use the recreational amenities, such as the pool, for free as would any other guest. In addition,

Respondent will provide free watercraft rentals as part of this program. At least 25% of the free nights at the resort will be during summer, and at least 25% will be during weekends, and Respondent will provide regular monitoring reports to update the Commission as to what program benefits the money was spent on.

Thirdly, in addition and as mitigation for the previous lost public access, under the proposed Consent Agreement Respondent will undertake a number of additional actions to improve public access at the facilities including the following: 1) remove a fence not built by Respondent but that currently blocks access via the beach to the beach adjacent to Mission Bay RV Resort, 2) provide new public restrooms at Mission Bay RV Resort and provide public access to the existing restroom nearest the beach at Campland, 3) provide 16 electric vehicle charging spaces among the two resorts, 4) record and advertise a video explaining to the public how to access the public beaches and amenities at the resorts, 5) install six interpretive signs between the resorts to educate the public about Mission Bay, and 6) implement a marine debris reduction program to reduce plastic pollution at the resorts. The total combined value of the public amenities plus the free camping program is estimated to be in excess of a value of \$1 million to the public.

Staff therefore recommends that the Commission **APPROVE** Consent Cease and Desist Order No. CCC-21-CD-01 and Consent Administrative Penalty CCC-21-AP-01.

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## APPENDIX A – Proposed Consent Cease and Desist Order No. CCC-21- CD-01 and Consent Administrative Penalty No. CC-21-AP-01

## EXHIBITS

Exhibit 1	Region Map
Exhibit 2	Leased Tidelands Map
Exhibit 3	Public Beach Overview at Campland
Exhibit 4	Public Parking Overview at Mission Bay RV Resort
Exhibit 5	Public Beach Overview at Mission Bay RV Resort
Exhibit 6	Unpermitted Sign at Campland Entrance
Exhibit 7	Campland Website Advertising ‘Private Beach’
Exhibit 8	Unpermitted Sign at Mission Bay RV Resort Entrance
Exhibit 9	Unpermitted Signs at Mission Bay RV Resort Parking Area
Exhibit 10	2017 Campland Lease
Exhibit 11	2019 Mission Bay RV Resort Lease
Exhibit 12	June 26, 2020 Notice of Violation
Exhibit 13	February 18, 2021 Notice of Intent to Issue a Cease and Desist Order and Administrative Penalty

## **I. MOTIONS AND RESOLUTION**

### **Motion 1: Consent Cease and Desist Order**

I move that the Commission **issue** Consent Cease and Desist Order No. CCC-21-CD-01 to Campland, LLC and Northeast MB, LLC, pursuant to the staff recommendation.

#### **Staff Recommendation of Approval:**

Staff recommends a **YES** vote. Passage of this motion will result in adoption of the resolution immediately below and issuance of the Consent Cease and Desist Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

#### **Resolution to Approve the Consent Cease and Desist Order:**

The Commission hereby issues Consent Cease and Desist Order No. CCC-21-CD-01, as set forth in Appendix A, and adopts the findings set forth below on the ground that development has occurred without the requisite Coastal Development Permit, in violation of the Coastal Act, and that the requirements of the Consent Cease and Desist Order are necessary to ensure compliance with the Coastal Act.

### **Motion 2: Consent Administrative Civil Penalty Action:**

I move that the Commission **issue** Consent Administrative Penalty No. CCC-21-AP-01 to Campland, LLC and Northeast MB, LLC, pursuant to the staff recommendation.

#### **Staff Recommendation of Approval:**

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in adoption of the resolution immediately below and the issuance of the Consent Administrative Penalty. The motion passes only by an affirmative vote of a majority of Commissioners present.

#### **Resolution to Issue Consent Administrative Civil Penalty Action:**

The Commission hereby assesses an administrative civil penalty by adopting Consent Administrative Penalty No. CCC-21-AP-01, as set forth in Appendix A, and adopts the findings set forth below on the grounds that activities and failures to act have occurred on properties leased by Campland, LLC and Northeast MB, LLC, Inc without a coastal development permit, in violation of the Coastal Act, and that these activities or failures to act have limited or precluded public access and violated the public access policies of the Coastal Act.



## II. HEARING PROCEDURES

The procedures for a hearing on a Cease and Desist Order pursuant to Section 30810 are outlined in the Commission's regulations at California Code of Regulations, Title 14 ("14 CCR") Section 13185. The requisite procedure for imposition of administrative penalties pursuant to Section 30821 of the Coastal Act (Pub. Resources Code, Div. 20) is set forth in Section 30821(b), which specifies that penalties shall be imposed by majority vote of all Commissioners present in the context of a public hearing in compliance with the requirements of Section 30810, 30811, or 30812. Therefore, the procedures employed for a hearing to impose administrative penalties may be the same as those used for a Cease and Desist Order hearing.

For a Cease and Desist Order hearing and an Administrative Penalty action, the Chair shall announce the matter and request that all parties or their representatives present at the hearing identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding, including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, at his or her discretion, to ask of any other party. Staff shall then present the report and recommendation to the Commission, after which the alleged violator(s) or their representative(s) may present their position(s) with particular attention to those areas where actual controversy exists. The Chair may then recognize other interested persons, after which the Commission typically invites staff to respond to the testimony and to any new evidence introduced.<sup>1</sup>

The Commission will receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in 14 CCR Section 13185, incorporating by reference Section 13065. The Chair will close the public hearing after the presentations are completed. The Commission may ask questions to any speaker at any time during the hearing or deliberations, including, if any Commissioner so chooses, any questions proposed by any speaker in the manner noted above.

Finally, the Commission shall determine, by a majority vote of those present and voting, whether to impose administrative penalties. The Commission shall also determine, by a majority vote of those present and voting, whether to issue the Cease and Desist Order and impose an Administrative Penalty, either in the form recommended by staff, or as amended by the Commission. Passage of the motions above, per the staff recommendation, or as amended by the Commission, will result in the issuance of the Consent Cease and Desist Order and imposition of a Consent Administrative Penalty.

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<sup>1</sup> Note that there are currently in use virtual hearing procedures, available at <https://documents.coastal.ca.gov/assets/virtual-hearing/VIRTUAL-HEARING-PROCEDURES.pdf>.

### **III. FINDINGS FOR CONSENT CEASE AND DESIST ORDER CCC-21-CD-01 AND CONSENT ADMINISTRATIVE PENALTY NO. CCC-21-AP-01<sup>2</sup>**

#### **A. Description of Leased Tidelands**

The Leased Tidelands that are the subject of this Consent Agreement are located in the northeastern portion of Mission Bay in the city of San Diego (**Exhibit 1**). The Leased Tidelands include two bayfront areas that are separated from the other by Rose Creek (**Exhibit 2**). Respondent operates the western area of the Leased Tidelands as Campland-on-the-Bay ("Campland"), and the eastern area as Mission Bay RV Resort. To the west of Campland is the Kendall-Frost Mission Bay Marsh Preserve, and to the east of Mission Bay RV Resort is the public De Anza Cove Park. South of the Leased Tidelands are Mission Bay Park and Fiesta Island.

While the historic wetlands of what is now Mission Bay were largely removed in the 1940's as part of a project to create this large recreational bay, important wetlands still exist adjacent to Campland at the Kendall-Frost Mission Bay Marsh Preserve. In addition, Mission Bay is on the Pacific Flyway for migratory birds, and Fiesta Island to the south of the Leased Tidelands is habitat for endangered California least terns.

The area of Mission Bay near the Leased Tidelands is characterized by recreational facilities, public parks, and habitat area, and many people come to enjoy the calm water for swimming and using small watercraft such as kayaks and jet skis, as well as to launch boats. People also come to picnic and barbeque, and to walk and bike along the waterfront and beaches. While the nearby parks consist of unfenced open space, the beaches at the resorts at Campland and Mission Bay RV Resort are surrounded by the resorts themselves, which are fenced.

#### Campland

The landward boundary of Campland is surrounded by a fence. Therefore, in order to access the beach at Campland via land, one must pass through a single entry point that includes a guard and gate. Once past the guard and gate, one must continue on through the resort itself to reach the beach.

#### Mission Bay RV Resort

The beach at Mission Bay RV Resort similarly cannot be accessed via land without passing through the resort itself. The beach would be accessible via foot by walking from the adjacent beach at De Anza Cove Park, however, a fence built by a prior lessee

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<sup>2</sup> These findings also hereby incorporate by reference the Summary at the beginning of the 8/26/21 staff report ("Staff Report: Recommendations and Findings for Consent Cease and Desist Order No. CCC-21-CD-01 and Consent Administrative Penalty No. CCC-21-AP-01") in which these findings appear, which section is entitled, "Summary of Staff Recommendations and Findings."

that predates Respondent's lease currently extends into the water and separates the two beaches. This fence is associated with an abandoned mobile home park that existed before Respondent's lease. Thus, visitors to the beach via land at Mission Bay RV Resort currently cannot pass this fence and therefore must pass through the Mission Bay RV Resort entrance gate and through the resort itself. Similarly to the beach at Campland, the beach at Mission Bay RV resort cannot be accessed via land without passing through a narrow access point and then through the RV resort itself, and past a similar guard.

### **Lease History**

In 1945, the State of California granted tidelands, held in the public trust to the city of San Diego in what is now Mission Bay. The grant of these public trust tidelands "reserved to the people of the State of California the absolute right to fish in the waters of Mission Bay with the right of convenient access to such waters," among other conditions. Since then, the City has leased much of the Mission Bay waterfront to private commercial businesses for recreational purposes.

#### **The Campland Leases**

In 1967, the City entered into a 50-year lease agreement with Tri-Square Construction Co. Inc., filed with the City Clerk on April 30, 1968 as Document No. 723339, for an area of filled land in Mission Bay now referred to as Campland. This lease required the lessee to provide public access to the beach on Mission Bay, among other things. In 1968, the original lease was assigned to Mission Bay Campland Inc. According to Michael Gelfand, the current President of the Respondent entities, his father purchased the lease for Campland in 1975, and the Gelfand family has managed Campland since that date.

In 2017, Campland, LLC (Respondent) started a new three-year lease with the City at Campland, with the possibility of two one-year extensions, filed with the City Clerk on April 4, 2017 as Document No. RR-311006. This lease also included requirements to provide public access to the beach, including a requirement to provide 31 free public parking spots at Campland. In addition, the lease also included requirements to post signs stating that the area is open to the public. In 2019, this lease was extended to June 30, 2023, and the City reserved the right to give up to 4 one-year lease extensions, among other short-term lease extension possibilities.

#### **The Mission Bay RV Resort Leases**

The leased public property to the east of Campland in northeast Mission Bay was historically operated as a mobile home park. Then, in 2019, the City entered into a four-year lease agreement with the possibility of a one-year extension with Northeast MB, LLC (Respondent) for this area of filled tideland, now referred to as Mission Bay RV Resort. This lease also includes requirements to provide public access to the beach, as well as public access to bike and pedestrian paths and a requirement to provide free access to a large public parking lot. In addition, this lease also included requirements to

post signs stating that this area was public. This lease was filed with the City Clerk on June 24, 2019 as Document No. R-312531 and this leased area has since been managed by Respondent entity, Northeast MB, LLC.

## **B. Violation History**

### **Campland**

The 1967 lease for Campland required Respondent to observe all laws, including laws passed after the lease went into effect, which includes the Coastal Zone Initiative that went into effect in 1972, and the Coastal Act, which went into effect in 1976. However, during the period of time Respondent managed the property under this lease, Respondent posted signs that had the effect of blocking public access to the beach at Campland, including some declaring Campland to be “private property,” even though the area is actually leased land in a public park that is required to be open to the public for access. In addition, in 2015, Respondent advertised the beach at Campland as a “private beach” on its own website, even though the lease required the area to be “available for use by the general public.”

Then in 2017, the 1967 lease expired after its term of 50 years, and Campland, LLC entered into a new lease with the City to continue to lease this part of Mission Bay. The 2017 Campland Lease identifies the area as a public park and requires the provision of thirty-one (31) free public parking spaces to be reserved for use by the general public. The lease explains that the “general public” consists of “persons not patronizing or otherwise using the Premises for an Allowed Use.” The lease also requires that all signs be approved by the City and requires compliance with all applicable laws. In addition, the public trust tidelands grant from the state to the City still requires public access for the purposes of fishing.

Respondent, among undertaking other unpermitted development, did not provide the 31 free public parking spots. In addition, on multiple instances, Respondent also refused entry altogether to people who desired to drive in and use the free general public parking area to access the beach. Further, Respondent failed to put up the required signs identifying the property as City-owned and available for public use, and instead maintained signs declaring the area to be private property, resulting in the impediment of public access. In addition, Respondent maintained a webpage that declared Campland to have a “private beach,” further deterring the public from using this area as intended.

### **Mission Bay RV Resort**

The 2019 Mission Bay RV Resort Lease requires Respondent, as the lessee of land surrounding the parking lot, to provide public access to the designated public parking lot, as well as the beach and bike and pedestrian boardwalk. Similarly to the Campland lease, this lease also required Respondent to post signs identifying Mission Bay RV Resort as owned by the City and available for public use. In addition, the lease requires that all signs be approved by the City and requires compliance with all applicable laws.

Also, the public trust tidelands grant from the state to the City still requires public access for the purposes of fishing.

However, Respondent did not post any signs identifying the area as City-owned and open to the public, and instead maintained a sign at the entrance stating “Mission Bay RV Resort Parking Only,” and signs within the parking lot itself stating “Guest Parking Only” and “Parking by Permit Only.” These signs had the effect of blocking public access to the public parking there, and also deterred public access for those wishing to park to access the beach and the trail, or to fish. Respondent also maintained several other physical items of development directly blocking public parking spaces at Mission Bay RV Resort, including dumpsters. In addition, Respondent maintained webpages illustrating and stating that the public parking area was instead designated for guests of the resort.

Respondent’s actions that violated the lease requirements at both Campland and Mission Bay RV Resort constituted ‘development’ under the Coastal Act, but no Coastal Development Permit (“CDP”) was obtained. Therefore, these actions constituted unpermitted development and violations of the Coastal Act.

### **Enforcement History**

After receiving reports of the violations, Commission staff sent Respondent a Notice of Violation in June of 2020. Upon receiving the notice, Respondent quickly removed most of the signs and other obstructions to public access. However, the Commission continued to receive reports that Respondent’s guards were not allowing the public into Campland, and that the guards were also telling the public that no public parking existed there.

However, Respondent worked quickly with Commission enforcement staff to reach this consensual resolution. In order to fully restore public access to Campland and Mission Bay RV Resort, the agreement reached requires Respondent to prevent any further restriction of public access by installing new signs that explain what areas are public, instituting an employee training program to assist the public in accessing these areas, and adding text to their website explaining that the area is public, and requesting that any third party websites with references to private beaches at these resorts correct their websites to explain that these areas are public.

## **C. Basis for Issuing Consent Cease and Desist order**

### **1. Statutory Provision**

The statutory authority for issuance of this Cease and Desist Order is provided in Coastal Act Section 30810, which states, in relevant part:

- (a) [I]f the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the

permit . . . the commission may issue an order directing that person or governmental agency to cease and desist . . .

- (b) The cease and desist order may be subject to such terms and conditions as the commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material or the setting of a schedule within which steps shall be taken to obtain a permit pursuant to this division.

## 2. Factual Support for Statutory Elements

The statutory provision requires the Commission to demonstrate that Respondent undertook an activity that requires a CDP where Respondent did not secure one.

In this case, it is uncontroverted that Respondent does not have a CDP for the development at issue here. The subsequent step is demonstrating Respondent took an action requiring a CDP. Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the Coastal Zone must obtain a CDP. “Development” is broadly defined by Coastal Act Section 30106, in relevant part:

**“Development” means, on land, in or under water, ... the placement or erection of any solid material or structure... change in the density or intensity of use of land, ... change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure...**

Under the Coastal Act’s definition of development, Respondent performed the following acts of “development”: 1) placement of signs and other physical items of development, including, but not limited to, signs restricting access to the public and signs stating that the Leased Tidelands are private property, 2) placement of physical objects that blocked public access, including storage of dumpsters, trailers, and boats in public parking areas, and 3) undertaking other actions that have the effect of impeding or discouraging public access, including: use of private security guards and fences that block and/or impede public access to beaches, public parking areas, and public tidelands; advertising on Respondent’s company website and Respondents’ advertising on other websites that the beach at Campland is a “private beach;” and labeling the required public parking area as “guest parking” on the Mission Bay RV Resort website; all of which had the effect of changing the intensity of use of beaches, public parking areas, and public tidelands, and of access thereto.

All of the above activities fall clearly within the Coastal Act definition of development and, therefore, required respondent to secure a CDP to authorize the development. Change in intensity of use of water, or of access thereto, is expressly listed as development and is the prime component of Respondent’s actions. Respondent’s actions to restrict access to the Mission Bay beaches via signs, guards, advertising, and physical obstructions all changed the intensity of access there.

None of this development, however, received any such Coastal Act authorization. Therefore, all of these items and activities constituted unpermitted development, and pursuant to Section 30810, this development constituted an activity that required a permit from the commission without securing the permit. Thus, this triggered the independent criterion in section 30810(a), therefore authorizing the Commission's issuance of this Cease and Desist Order.

**b. The Unpermitted Development at Issue is not Consistent with the Coastal Act's Access Provisions and Principles of Environmental Justice**

The following discussion does not address any required element of Section 30810 of the Coastal Act, and the findings in this section are therefore not essential to the Commission's ability to issue a cease and desist order. This explication is, however, important for context, and for understanding the totality of impacts associated with the violations and for analyzing factors discussed in Section D, below, and for noting that this proposed resolution would benefit all public users by restoring and improving public access to this area.

Public Resources Code Section 30210 states:

In carrying out the requirements of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Additionally, Section 30013 provides:

The Legislature further finds and declares that in order to advance the principles of environmental justice and equality, subdivision (a) of Section 11135 of the Government Code and subdivision (e) of Section 65040.12 of the Government Code apply to the commission and all public agencies implementing the provisions of this division.

Section 30107.3 defines Environmental Justice as:

... the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

The Leased Tidelands are held in the public trust for all Californians, and the City therefore required public access to these Leased Tidelands, including the beaches and parking areas. When Respondent restricted access to the Leased Tidelands, only paying guests of the resorts were able to easily access the beaches and parking areas. This meant that the coast in this area was only easily accessible to those able to afford to stay in these resorts. However, the resorts at Campland and Mission Bay RV Resort are much more expensive than nearby public campgrounds. This is in part due to the fact that the resort at Campland has additional recreational amenities such as a pool and live entertainment that nearby public campgrounds do not have, however, the

overall daily rates are the main issue with regards to availability of low-cost coastal accommodations.

The approximate base cost of renting a campground space for a tent for two weekend nights at Campland in the summer is \$292. This is over three times the cost of the nearby state campground at San Elijo State Beach in Cardiff, which would cost approximately \$80 for two weekend nights in the summer. At Mission Bay RV Resort, the base cost for an RV space is approximately \$282, which is approximately double the cost of the nearby public RV campground at Silver Strand State Beach in Coronado, which would cost approximately \$140 for two nights. Therefore, when Respondent restricted access here, the beaches and parking on these tidelands were restricted to people who could afford the relatively high costs of camping at these resorts.

It is an important precept of environmental justice in California that all of the public should enjoy access for recreation at coastal areas. Public access and coastal recreation continue to be threatened by unpermitted restrictions on beach or coastal access. While commercial businesses and people who can afford to patronize those businesses benefit from private development fronting the beach and ocean, those that do not have these means and/or live far from the coast receive the burdens associated therewith. Securing open public access for all citizens provides low-cost, outdoor recreation that can improve the overall quality of life for all of the public. The unpermitted development at issue in this matter is therefore inconsistent with the public access policies of the Coastal Act.

### Free Camping Program

As part of the mitigation for these violations and in order to promote environmental justice, Respondent will create a free camping program to help underserved youth and families enjoy this area just as paying guests do. The free camping program participants are defined as individuals or communities that have been historically excluded from accessing the benefits of coastal opportunities and/or disproportionately impacted by environmental burdens and includes, but is not limited to, low-income households; Black, Indigenous, and people of color; people with disabilities; youth who attend Title 1 schools (and their caregiver/s); and foster and transition age youth. In order to make the program as inclusive as possible, Respondent has agreed to advertise to find potential participants in San Diego County that might not have otherwise heard of this opportunity.

In addition, Respondent will fund transportation and camping equipment for program participants to use for free if they request it. When at the resort, program participants will be able to use the resort amenities such as the pool and live entertainment, just as paying guests are able to. Respondent can also propose to provide free watercraft rentals as well, which would include things like paddle boards and kayaks. While San Diego is generally sunny year-round, the proposed agreement provides that at least 25% of the camping nights must be during the summer so that program participants can enjoy this area when it is warm and school is out of session. In addition, at least 25% of camping nights must be on weekends so that it is easier for working families to



participate as well. The Commission has not overseen many detailed programs like this before, and so in order to ensure that the program operates as well as possible, Respondent shall submit regular reports explaining what benefits were provided, and how the program might be improved.

## **D. Basis for Issuing Consent Administrative Civil Penalty Action**

### **1. Statutory Provision**

The statutory authority for imposition of administrative penalties is provided in the Coastal Act in Public Resources Code Section 30821,<sup>3</sup> which states, in relevant part:

(a) In addition to any other penalties imposed pursuant to this division, a person, including a landowner, who is in violation of the public access provisions of this division is subject to an administrative civil penalty that may be imposed by the commission in an amount not to exceed 75 percent of the amount of the maximum penalty authorized pursuant to subdivision (b) of Section 30820 for each violation. The administrative civil penalty may be assessed for each day the violation persists, but for no more than five years.

In addition, sections 30820 and 30822 create potential civil liability for violations of the Coastal Act more generally. Section 30820(b) also provides for daily penalties, as follows:

Any person who performs or undertakes development that is in violation of [the Coastal Act] or that is inconsistent with any coastal development permit previously issued by the commission . . . , when the person intentionally and knowingly performs or undertakes the development in violation of this division or inconsistent with any previously issued coastal development permit, may, in addition to any other penalties, be civilly liable . . . in an amount which shall not be less than one thousand dollars (\$1,000), nor more than fifteen thousand dollars (\$15,000), per day for each day in which the violation persists.

Section 30822 states:

Where a person has intentionally and knowingly violated any provision of this division or any order issued pursuant to this division, the commission may maintain an action, in addition to Section 30803 or 30805, for exemplary damages and may recover an award, the size of which is left to the discretion of

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<sup>3</sup> All section references in this section, III.C, are to the California Public Resources Code, and as such, to the Coastal Act, unless otherwise indicated.

the court. In exercising its discretion, the court shall consider the amount of liability necessary to deter further violations.

Through the proposed settlement, Respondent has agreed to resolve its financial liabilities under all of these sections of the Coastal Act.

## **2. Application to Facts**

This case, as discussed above, includes violations of the public access provisions of the Coastal Act. These provisions include, but are not necessarily limited to, Section 30210, which states in relevant part that “maximum access... and recreational opportunities shall be provided for all the people.” As detailed above, only paying guests of Campland and Mission Bay RV Resort have been able to easily access the beaches and public parking there, even though the City required Respondent to provide public access to the beaches and designated parking at the resorts. Because Respondent’s unpermitted development blocked and is blocking public access to the beach and public parking areas, it blocked and is blocking public access and therefore is inconsistent with the provision of maximum public access to the beach in contravention of Section 30210 of the Coastal Act. In addition, the actions that Respondent undertook violated the City’s lease requirements but also constituted development that required a CDP, but none was obtained. Therefore, these actions to block public access constituted unpermitted development in violation of the Coastal Act.

The following pages set forth the basis for the issuance of this Consent Agreement by providing substantial evidence that the Unpermitted Development meets all of the required grounds listed in Coastal Act Sections 30810 and 30811 for the Commission to issue Cease and Desist Orders and Administrative Penalty Actions.

### **a. Exceptions to Section 30821 Liability Do Not Apply**

Under section 30821(h) of the Coastal Act, in certain circumstances, a party who is in violation of the public access provisions of the Coastal Act can nevertheless avoid imposition of administrative penalties by correcting the violation within 30 days of receiving written notification from the Commission regarding the violation. This “cure” provision of Section 30821(h) is inapplicable to the matter at hand. For 30821(h) to apply, there are three requirements, all of which must be satisfied: 1) the violation must be remedied consistent with the Coastal Act within 30 days of receiving notice, 2) the violation must not be a violation of a permit condition, and 3) the party must be able to remedy the violation without performing additional development that would require Coastal Act authorization.

A Notice of Violation was sent on June 26, 2020 to Respondent, informing them of the violations at both Campland and Mission Bay RV Resort, including unpermitted signs and guards restricting access at Campland, and unpermitted signs and physical items restricting access at Mission Bay RV Resort. However, Respondent’s guards at Campland continued to restrict access to the beach and parking at Campland in the

months afterward. Thus, the violations on the Leased Tidelands remained unresolved after 30 days of receiving a Notice of Violation from the Commission. In addition, Section 30821(f) of the Coastal Act states:

(f) In enacting this section, it is the intent of the Legislature to ensure that unintentional, minor violations of this division that only cause de minimis harm will not lead to the imposition of administrative penalties if the violator has acted expeditiously to correct the violation.

Section 30821(f) is also inapplicable in this case. As discussed above and more fully below, the unpermitted restriction of public access here is significant both because it violated the terms of a City-issued lease of publicly owned tidelands, but also because restriction of public access to two beaches and two parking areas is an extremely significant harm under the Coastal Act. Therefore, the violation cannot be considered to have resulted in “de minimis” harm to the public.

**b. Penalty Amount**

Pursuant to Section 30821(a) of the Coastal Act, the Commission may impose penalties in “an amount not to exceed 75 percent of the amount of the maximum penalty authorized pursuant to subdivision (b) of Section 30820 for each violation.” Section 30820(b) authorizes civil penalties that “shall not be less than one thousand dollars (\$1,000), [and] not more than fifteen thousand dollars (\$15,000), per day for each day in which each violation persists.” Therefore, the Commission may authorize penalties in a range up to \$11,250 per day for each violation. Section 30821(a) sets forth the time for which the penalty may be collected by specifying that the “administrative civil penalty may be assessed for each day the violation persists, but for no more than five years.”

In this case, Commission staff has evidence that Respondent was advertising a “private beach” at Campland on the Campland website as early as February 9, 2015. In addition, Commission staff has evidence that following Respondent’s lease at Mission Bay RV Resort taking effect on June 30, 2019, Respondent maintained signs and obstructions that restricted access, and failed to install signs stating that the area was public. After receiving a report of violations, enforcement staff visited the resorts on February 20, 2020, and documented many unpermitted restrictions of public access. While these violations likely also occurred during the entire statutory period of five years during which administrative penalties may apply, because Respondent has agreed to amicably resolve this matter, and to provide public access programs and amenities which will greatly benefit the public and at a significant cost, as well as pay \$250,000 to the Violation Remediation Account, Commission staff recommends that the Commission approve the proposed resolution contained in the proposed Consent Cease and Desist Order and Consent Administrative Penalty.

As discussed immediately below, Commission staff thoroughly analyzed the factors enumerated by the Coastal Act in crafting the proposed Consent Administrative Civil Penalty calculation for the Commission’s approval, and the Commission concurs with

staff's analysis. Under 30821(c), in determining the amount of administrative penalty to impose, "the commission shall take into account the factors set forth in subdivision (c) of Section 30820."

Section 30820(c) states:

In determining the amount of civil liability, the following factors shall be considered:

- (1) The nature, circumstance, extent, and gravity of the violation.
- (2) Whether the violation is susceptible to restoration or other remedial measures.
- (3) The sensitivity of the resource affected by the violation.
- (4) The cost to the state of bringing the action.
- (5) With respect to the violator, any voluntary restoration or remedial measures undertaken, any prior history of violations, the degree of culpability, economic profits, if any, resulting from, or expected to result as a consequence of, the violation, and such other matters as justice may require.

Applying the factors of Section 30820(c)(1), the violation at hand should warrant the imposition of substantial civil liability; violations have persisted on the Leased Tidelands for many years and the violations have meant that the public has been effectively denied access to two beaches and two free parking areas. This restricted access therefore disproportionately affected those who cannot afford to reserve campsites at Respondent's resorts, which are priced well above public campgrounds in the area. Therefore, the above factor weighs in favor of a significant penalty.

With regards to 30820(c)(2), the violation can be remedied going forward and compliance with this Consent Agreement will ensure that adequate public access is maintained at this location. For example, under the proposed Consent Agreement, Respondent is required to change their websites to explain that there are publicly available beaches and parking at these resorts, to train their employees to inform the public of the access that is required to be provided to the general public, and to install signs pointing the public in the direction of the beaches and publicly available parking areas. However, there are years of public access losses that can never be recovered, and many people have been denied public access to the coast that they cannot now regain, and therefore, a moderate penalty is warranted under this subsection.

Section 30820(c)(3) requires consideration of the resource affected by the violation in the assessment of the penalty amount. The resource affected by violation, public access to the beach, is an oft threatened and important resource across the State. Ensuring public access to all of California's beaches is promised to the people by the

State Constitution and is essential for implementing the Coastal Act, and this violation blocked many members of the public from reaching the beaches at Campland and Mission Bay RV Resort. The beaches in Mission Bay provide access opportunities for multiple inland counties that are home to millions of people of all socio-economic backgrounds that rely on public beaches for needed open space. Moreover, the population of southern California has continued to increase, creating additional significance for coastal access points. Therefore, an accessible beach here is a relatively sensitive resource in terms of access, and thus, a moderately high penalty is warranted under this factor.

Section 30820(c)(4) takes into account the costs to the state of bringing this action. In this case, mostly due to Respondent's willingness to work with Commission staff to resolve this case relatively quickly and without litigation, the costs have not been as significant compared to many other cases. Commission staff has spent less time in meetings and negotiations with Respondent relative to many of our other cases. After Respondent was notified of the violations in a Notice of Violation letter sent in June of 2020, Respondent has diligently and quickly worked to resolve this matter. While working to craft an amicable resolution took staff time, it has had benefits for the public. This has allowed the parties to resolve the violation without litigation, and to reach a settlement that includes injunctive measures that would not be as readily available without this settlement, such as providing a free camping program for underserved youth, and public amenities like more parking spaces, bathrooms, interpretive signs, and electric vehicle chargers, that all make it easier for the public to access these beaches. Taking all of this into account for calculating the penalty amount, the immediacy with which Respondent has agreed to comply with the Coastal Act and engage in the resolution process weighs towards a reduction from a more substantial penalty allowed under the statute.

Finally, Section 30820(c)(5), requires evaluation of the entity that undertook and/or maintained the unpermitted development and whether the violator has any prior history of violations, the degree of culpability, economic profits, if any, resulting from, or expected to result as a consequence of, the violation, and such other matters as justice may require. These violations started as least as far back as 2015 and may have persisted longer. In addition, Respondent did profit from some of the violations, in that Respondent advertised a "private beach" at Campland, an act that privatized and monetized a public beach, and discouraged non-paying guests from accessing the beach. In addition, Campland's failure to provide the 31 public parking spaces meant that Campland was likely able to charge \$20 per car for all public parking in those parking spaces or to rent those spaces for monthly storage, even though 31 of those public parking spaces should have been free. While Respondent did remove most of the signs restricting public access after receiving a Notice of Violation in June of 2020, and did install some new signs stating that there is public access in some of the areas, Commission staff still received some reports of Respondents' employees not allowing the public to access the free public parking and the beach.

In spite of this, though, Respondent has still been dedicated to quickly reaching an amicable resolution that provides new benefits to the public. Respondent has been much more amenable than most violators, and this has helped to minimize delays in reopening these public areas and resolving these violations.

Aggregating these factors, Commission staff concludes that a moderate penalty is justified here. Staff recommends that the Commission exercise its prosecutorial discretion and adopt staff's recommendation for the imposition of a monetary penalty in the amount of \$250,000, which will be paid to the Violation Remediation Account. As part of this consensual resolution, Respondent shall also provide additional measures to fully address this matter. In light of Respondent's unique ability to provide enhanced public access amenities at its facilities, Respondent shall provide a free camping program for underserved youth, as well as public amenities including, restrooms, interpretive signs, and electric vehicle chargers, in addition to a plastic pollution prevention program. Combined, Commission staff believes that this agreement provides a value to the public in excess of \$1 million.

Therefore, staff recommends that the Commission issue the Consent Administrative Penalty CC-21-AP-01 attached as **Appendix A** of this staff report.

#### **(i) Consent Agreement is Consistent with Chapter 3 of the Coastal Act**

The Consent Agreement, attached to this staff report as Appendix A, is consistent with the resource protection policies found in Chapter 3 of the Coastal Act. This Consent Agreement requires and authorizes Respondent to, among other things, cease and desist from conducting any further unpermitted development on the Leased Tidelands stemming from actions or inactions of Respondent that result in a change in the intensity of use of the Leased Tidelands, particularly in relation to the actions or inactions that decrease the public's ability to access the coast, and to perform other public access improvements as described in further detail, above. Failure to provide the required public access would result in the continued loss of public access, inconsistent with the resource protection policies of the Coastal Act.

Therefore, as required by Section 30810(b), the terms and conditions of this Consent Agreement are necessary to ensure compliance with the Chapter 3 policies of the Coastal Act.

#### **E. California Environmental Quality Act**

The Commission finds that issuance of these Consent Agreements, to compel the removal of the Unpermitted Development and the restoration of the Property, among other things, as well as the implementation of these Consent Agreements, are exempt from the requirements of the California Environmental Quality Act of 1970 (CEQA), Cal. Pub. Res. Code §§ 21000 *et seq.*, for the following reasons. First, the CEQA statute (section 21084) provides for the identification of "classes of projects that have been

determined not to have a significant effect on the environment and that shall be exempt from [CEQA].” *Id.* at § 21084. The CEQA Guidelines (which, like the Commission’s regulations, are codified in 14 CCR) provide the list of such projects, which are known as “categorical exemptions,” in Article 19 (14 CCR §§ 15300 *et seq.*). Because the Commission’s process, as demonstrated above, involves ensuring that the environment is protected throughout the process, one of those exemptions apply here: the one covering enforcement actions by regulatory agencies (14 CCR § 15321).

Secondly, although the CEQA Guidelines provide for exceptions to the application of these categorical exemptions (14 CCR § 15300.2), the Commission finds that none of those exceptions applies here. Section 15300.2(c), in particular, states that:

A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

CEQA defines the phrase “significant effect on the environment” (in Section 21068) to mean “a substantial, or potentially substantial, adverse change in the environment.” These Consent Agreements are designed to protect and enhance the environment, and they contain provisions to ensure, and to allow the Executive Director to ensure, that they are implemented in a manner that will protect the environment. Thus, this action will not have any significant effect on the environment, within the meaning of CEQA, and the exception to the categorical exemptions listed in 14 CCR section 15300.2(c) does not apply. An independent but equally sufficient reason why that exception in section 15300.2(c) does not apply is that this case does not involve any “unusual circumstances” within the meaning of that section, in that it has no significant feature that would distinguish it from other activities in the exempt classes listed above. This case is a typical Commission enforcement action to protect and restore the environment and natural resources.

In sum, given the nature of this matter as an enforcement action that will ensure the environment is protected throughout the process, and since there is no reasonable possibility that it will result in any significant adverse change in the environment, it is categorically exempt from CEQA.

#### **IV. SUMMARY OF FINDINGS OF FACT**

1. The Leased Tidelands that are the subject of this Consent Agreement are State tidelands granted to the city of San Diego and commonly known as Campland on the Bay, located at 2211 Pacific Beach Drive (approximately 40 acres of land and 5.5 acres of water space in Mission Bay Park, as described in the April 25, 2017 lease between the City of San Diego and Campland, LLC), and Mission Bay RV Resort, located at 2727 De Anza Road (approximately 70 acres of land and 6 acres of water space in Mission Bay Park, as described in the July 1, 2019 lease between the City of San Diego and Northeast MB, LLC), respectively, in San Diego, CA.

2. Respondent's leases with the City of San Diego required public access to these Leased Tidelands, including to the beaches and certain public parking areas. The current April 25, 2017 lease for Campland requires the resort to provide 31 free public parking spaces, provide public access to the beach, and to post signs stating that the area is public. The current July 1, 2019 lease for Mission Bay RV resort requires the resort to provide public access to the beach, provide free public parking in a large beachfront public parking area, and to post signs stating that the area is public.
3. Campland, LLC, Northeast MB, LLC are the respective lessees of the Leased Tidelands upon which the City has required public access to, and Gelfand Properties, LLC, and Terra Vista Management, Inc, are the respective managers of the Leased Tidelands.
4. Coastal Act Section 30810 authorizes the Commission to issue a cease and desist order when the Commission determines that any person has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the Commission without securing a permit, or (2) is inconsistent with a permit previously issued by the Commission.
5. Unpermitted Development as defined above has been undertaken by Respondent and occurred without a CDP and is inconsistent with the City's lease requirements, including but not limited to: 1) placement of signs and other physical items of development, including, but not limited to, signs restricting access to the public and signs stating that the Leased Tidelands are private property, 2) placement of physical objects that blocked public access, including storage of dumpsters, trailers, and boats in public parking areas, and 3) undertaking other actions that have the effect of impeding or discouraging public access, including: use of private security guards and fences that block and/or impede public access to beaches, public parking areas, and public tidelands; advertising on Respondent's company website and Respondents' advertising on other websites that the beach at Campland is a "private beach;" and labeling the required public parking area as "guest parking" on the Mission Bay RV Resort website; all of which had the effect of changing the intensity of use of beaches, public parking areas, and public tidelands, and of access thereto.
6. All of the Leased Tidelands are located within the Coastal Zone. The unpermitted development is within a "Deferred Certification Area" and therefore required a CDP from the Commission, as required by the Coastal Act and the City of San Diego LCP. Since no CDP was obtained to authorize this development, the aforementioned development is unpermitted and constitutes a violation of the Coastal Act.
7. The statutory authority for imposition of administrative penalties is provided in Section 30821 of the Coastal Act. The criteria for imposition of administrative civil penalties pursuant to Section 30821 of the Coastal Act have been met in this case.



Sections 30820 and 30822 of the Coastal Act create potential civil liability for violations of the Coastal Act more generally.

8. The parties agree that all jurisdictional and procedural requirements for issuance of and enforcement of this Consent Agreement, including Section 13187 of the Commission's regulations, have been met.
9. The work to be performed under this Consent Agreement, if completed in compliance with the Consent Agreement and the plan(s) required therein, will be consistent with Chapter 3 of the Coastal Act.
10. The Respondent has agreed to assume the obligations of this Consent Agreement, which settles all Coastal Act violations related to the specific violations described in #5, above.
11. As called for in Section 30821(c), the Commission has considered and taken into account the factors in Section 30820(c) in determining the amount of administrative civil penalty to impose. The penalty agreed to in this settlement is an appropriate amount when considering those factors.